IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 696 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VRAJVAN CO.OP.HOUSING SOCIETY LTD. THRO' ORGANIZER

Versus

SHANKARJI SOMAJI THAKORE

Appearance:

MS ROOPAL R PATEL for the Petitioner.

MR JITENDRA M PATEL for the Respondent.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 10/03/2004

ORAL JUDGEMENT

The petitioner is the original defendant of Civil Suit No.330 of 1996. The respondent-plaintiff has filed the aforesaid suit on the ground that the disputed land is in the possession of the plaintiff and he is cultivating the same. In the aforesaid suit, the plaintiff has prayed for a permanent injunction, restraining the defendants from taking over the possession of the suit land and two rooms, by using force. In the said suit, interim injunction application was preferred by the plaintiff, which was rejected by the

trial court, against which the original plaintiff preferred an appeal, being Civil Miscellaneous Appeal No.177 of 1996. The said appeal was decided by the Court of Third Joint District Judge, Ahmedabad (Rural) at Mirzapur. The appellate court allowed the said appeal and the defendants were directed to maintain status quo in respect of the suit property, till the suit is decided. The said order is challenged at the instance of the original defendant by way of this Civil Revision Application.

Considering the nature of the order, it is clear that the present revision is filed against an interlocutory order in the suit and in view of the amendment in Section 115 of the Code of Civil Procedure, this CRA is not maintainable. This CRA is accordingly dismissed as not maintainable. Rule is discharged. No costs.

It is clarified that it would be open for the petitioner to challenge the impugned order by fling a Special Civil Application under Article 227 of the Constitution of India, if the petitioner so desires. In order to enable the petitioner to take appropriate recourse in accordance with law, interim relief granted by this Court is ordered to be extended upto 25th March, 2004.

10th March, 2004 (P.B. Majmudar, J.)

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(apj)